

Appl. No. 10/748,651
Amdt. Dated 3/14/2005
Reply to Office action of 2/23/2005

REMARKS/ARGUMENTS

The Examiner is thanked for the clarity and conciseness of the previous Office Action, and for citation of references, which have been studied with interest and care.

This Amendment is in response to the Office Action mailed February 23, 2005.

In the Office Action, the drawings are objected to and claims 1, 2, 4, 6-8, 10, 11, 13, 15, 17, 18, 20, and 22 stand rejected under 35 U.S.C. § 102, and claims 3, 5, 9, 12, 14, 19, 21, and 23 stand rejected under 35 U.S.C. § 103.

Reconsideration in light of the following remarks made herein is respectfully requested.

Objections to the Drawings

The drawings are objected to under 37 CFR § 1.83(a). The Office Action states that the removeably coupled container feature should be shown in the drawings or canceled from the claims. Applicant respectfully submits that the removeably coupled container is shown in the drawings and Applicant respectfully traverses this objection.

The removeably coupled container 111 is shown being coupled to the fluid diversion housing in Figures 1-4, as well as many of the other figures. Further, in Figure 6, a bottom view of the housing is shown illustrating the bottom side of the bottom plate 132 of the fluid diversion housing that includes a circular container opening 172 for receipt and mounting of the container 111. The container 111 may be removeably coupled to the bottom plate of the fluid diversion housing. This is particularly described in paragraph 48 of Applicant's patent application and is clear from the Figures to someone skilled in the art that the container 111 is removeably coupled to the fluid diversion housing.

Rejection Under 35 U.S.C. § 102

Claims 1, 2, 4, 6-8, 10, 11, 13, 15, 17, 18, 20, and 22 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 6,161,779 issued to Oyler et al. (hereinafter Oyler).

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Applicant respectfully traverses this anticipation rejection.

Anticipation requires that each and every element as set forth in the claim be found, either expressly or inherently described, in a single prior art reference. MPEP § 2131; Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). However, it is not enough that the prior art reference disclose all the elements in isolation. Rather as stated by the Federal Circuit, "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim*. Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1985) (*emphasis added*). Thus, even if the prior art reference includes all the elements that are claimed, if the arrangement of the claimed elements is different from the arrangement of the prior art elements, anticipation will not be present. Moreover, as the Federal Circuit has stated, "[t]he *identical invention* must be shown in as complete detail as is contained in the...claim." MPEP § 2131; Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236. (*emphasis added*).

As set forth in Applicant's independent claims 1, 10, and 17 embodiment of Applicant's invention relate to a chemical additive dispensing device *for use with a station of an irrigation system...comprising...a fluid diversion housing having an input port for receipt of a first section of an outlet pipe extending from the station of the irrigation system and an output port for receipt of a second section of the outlet pipe* that provides fluid to the rest of the irrigation system...the input port and outlet port being in fluid communication such that the *first and second sections of the outlet pipe* are in fluid communication with one another.

In stark contrast thereto, Oyler does not relate at all to a chemical additive dispensing device for use with a station of an irrigation system. Nor does Oyler relate at all to utilizing a fluid diversion housing being coupled to a first section of an outlet pipe and to a second section of an outlet pipe extending from the station of an irrigation system.

In fact, Oyler is related to a lawn fertilizing apparatus that is attached to a hose.

As set forth in Oyler: "What is particularly needed is a lawn fertilizing apparatus which can be quickly and easily coupled to and decoupled from a garden hose without spilling any residual chemicals remaining in the apparatus." (Column 2, lines 1-4) (*Emphasis added*).

In contrast, as set forth in Applicant's Background section, Applicant's invention is directed to improving on apparatuses that are used with garden hoses.

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Thus, Oyler does not teach each and every limitation of Applicant's claimed invention nor does it teach the *identical invention*.

The Office Action asserts that column 6, lines 20-40 teach Applicant's claim limitations. Applicant respectfully traverses this assertion.

As set forth in column 6, lines 20-27: "Alternatively, as shown in FIGS 3 and 4, the lawn fertilizing apparatus 10 of the present invention may be coupled (without the sprinkler assembly 44) to an outlet garden hose 46 so as to provide for a flow of water/chemical mixture to an external component such as an external oscillating sprinkler or an array of sprinklers (i.e. a number of sprinklers attached to the end of the garden hose 46)" (Emphasis added).

Applicant respectfully submits that Oyler nowhere teaches or suggests a fluid diversion housing that has an input port that is coupled to a *first section of an outlet pipe extending from a station of an irrigation system* and an output port for receipt of a *second section of an outlet pipe* that provides fluid to the rest of the irrigation system...the input port and the outlet port being in fluid communication such that the *first and sections of the outlet pipe are in fluid communication with one another*.

Oyler quite simply does not teach or suggest these claim limitations and is directed to a different invention. Oyler is related to use with a garden hose. In fact, Oyler specifically discloses in its Detailed Description that the body of its housing has a fluid or water inlet 24, and a hose outlet 28 defined therein.

Because Oyler does not teach each and every limitation of Applicant's claims, and is directed to a completely different invention, Applicant respectfully submits that a prima facie case of anticipation has not been met.

Applicant respectfully requests that the Examiner remove these grounds for rejections and allow independent claims 1, 10, and 17 and the claims that depend therefrom.

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Conclusion

In view of the remarks made above, it is respectfully submitted that pending claims 1-23 define the subject invention over the prior art of record. Thus, Applicant respectfully submits that all the pending claims are in condition for allowance, and such action is earnestly solicited at the earliest possible date. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application. To the extent necessary, a petition for an extension of time under 37 C.F.R. is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such account.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 3/14/2005

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Attachments

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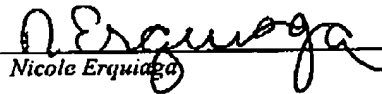
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Nicole Erquiaga

3/14/2005

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